



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

*271 Cadman Plaza East-7th Floor
Brooklyn, NY 11201*

BY ECF

The Honorable Nina R. Morrison
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

July 14, 2023

Re: *F.C.C., et al. v. United States of America*, Case No. 2:22-cv-5057 (NRM) (JMW)

Dear Judge Morrison:

This Office represents the United States of America (“Defendant”) in the above-captioned matter. Defendant writes to respectfully inform the Court that the parties jointly request a two-week extension, from July 17, 2023, to July 31, 2023, of the deadline for the parties to endeavor to exchange limited venue discovery, June 16, 2023 Docket Entry, and a concomitant extension of the related deadlines in the Court’s Order, as set forth below.

By way of background, Plaintiffs brought suit under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671-80 (“FTCA”) arising from their separation in Arizona in May 2018 following their apprehension for unlawful entry. The parties appeared before the Court on June 15, 2023 for oral argument on Defendant’s motion to transfer venue to the District of Arizona or to Plaintiffs’ home district. The Court ordered “limited discovery related to the question of venue as outlined on the record,” and that, by July 17, 2023, the parties were to endeavor to exchange such discovery, and by July 31, 2023, to “complete [such] discovery and file additional materials with the court related to the motion to transfer venue[.]” June 16, 2023 Docket Entry. The Court further ordered that, provided there were no modifications to the discovery schedule, Plaintiffs would file an Amended Complaint by August 15, 2023, and then the parties were to propose a briefing schedule for Defendant’s anticipated motion to dismiss within one week of the filing of the Amended Complaint. *Id.*

The parties jointly request a two-week extension of the above deadline, from July 17 to July 31. The parties are requesting this extension because the parties are in the process of negotiating a proposed protective order; Plaintiffs are currently reviewing a draft sent by Defendant. The time is also sought to permit additional time for this Office’s agency clients to finalize declarations relevant to the venue issue. Additionally, Plaintiffs informed Defendant that they intend to seek permission from the Court to serve a subpoena upon MercyFirst, the privately run shelter where Plaintiff A.C.L. was temporarily housed.

This is the first request for an extension of this deadline and, as mentioned above, it is a joint request. The parties also jointly seek concomitant extensions of the other deadlines set by the Court in the June 16, 2023 Order: for the parties to “complete discovery and file additional materials with the court related to the transfer motion,” from July 31 to August 14, 2023, and for Plaintiffs to file an Amended Complaint (to be followed by a proposed briefing schedule one week later) from August 15 to August 29, 2023.

Thank you for Your Honor's consideration of this request.

Respectfully submitted,

BREON PEACE
United States Attorney

By: /s/ Kimberly A. Francis
Kimberly A. Francis
Layaliza K. Soloveichik
Assistant U.S. Attorneys
718-254-6147
718-254-6298
kimberly.francis@usdoj.gov
layaliza.soloveichik@usdoj.gov

cc: Matthew K. Handley, Esq. (by ECF)
Rachel Nadas, Esq. (by ECF)